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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------|---------------------|------------------|
| 09/809,421 | 03/16/2001 | William Martin Snelgrove | 13222.00038 | 4905 |

27160 7590 04/24/2002

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EXAMINER

FELTEN, DANIEL S

| | |
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| ART UNIT | PAPER NUMBER |
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3624

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,421

Applicant(s)

SNELGROVE ET AL.

Examiner

Daniel S Felten

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 24-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 24-29, 34, 35, 41, 42 and 44 is/are rejected.
- 7) ☐ Claim(s) 30-33, 36-40, 43, 45, 46, 48 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 5. 6) ☐ Other: _____

DETAILED ACTION

1
2 1. Receipt of the preliminary amendment filed March 16, 2001 canceling claims 1-23 and
3 adding claims 24-49 is acknowledged. Claims 24-49 are pending in the application and are
4 presented to be examined upon their merits.

5 Acknowledgment is made of the Information Disclosure Statement filed March 16,
6 2001 and the Supplemental Disclosure Statement filed April 19, 2001.

Specification

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8
9 2. Applicant is reminded of the proper content of an abstract of the disclosure.

10 3. A patent abstract is a concise statement of the technical disclosure of the patent and
11 should include that which is new in the art to which the invention pertains. If the patent is of a
12 basic nature, the entire technical disclosure may be new in the art, and the abstract should be
13 directed to the entire disclosure. If the patent is in the nature of an improvement in an old
14 apparatus, process, product, or composition, the abstract should include the technical
15 disclosure of the improvement. In certain patents, particularly those for compounds and
16 compositions, wherein the process for making and/or the use thereof are not obvious, the
17 abstract should set forth a process for making and/or use thereof. If the new technical The
18 disclosure involves modifications or alternatives, the abstract should mention by way of
19 example the preferred modification or alternative.

1 The abstract should not refer to purported merits or speculative applications of the
2 invention and should not compare the invention with the prior art.

3
4 Where applicable, the abstract should include the following:

5
6 (1) if a machine or apparatus, its organization and operation;

7 (2) if an article, its method of making;

8 (3) if a chemical compound, its identity and use;

9 (4) if a mixture, its ingredients;

10 (5) if a process, the steps.

11
12 Extensive mechanical and design details of apparatus should not be given.

13
14 4. The abstract of the disclosure is objected to because

15 **The abstract should not refer to purported merits or speculative applications of the**
16 **invention and should not compare the invention with the prior art.**

17 Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claim 47 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 47 depends from claim 19 which was canceled in the preliminary amendment filed March 16, 2001.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 24, 29, 34 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Fraser et al (hereinafter "Fraser", US 5,329,589).

As in Claims 24 and 34:

1 An auction system for use over a communication network (see embodiment in col. 14, ll.
2 14-28), comprising:

3 an auctioneer voice transmitter for entering auctioneer voice messages from an auctioneer
4 (see *voice prompts*, col. 6, ll. 29-33);

5 a plurality of bidder voice terminals each for entering voice bidder messages from a
6 bidder respective thereto, each of said bidder voice terminals also for presenting voice bidder
7 messages from other bidders and said auctioneer voice messages (see col. 14, ll. 14-28; col. 7, ll.
8 18-34);

9 a connecting means interconnecting said transmitter and said terminals (see col. 3, ll. 39+;
10 col. 14; ll. 14-28);

11 a processing means attached to said connecting means for converting said auctioneer
12 voice messages and said voice bidder messages into a bidder data signal (see, switch, col. 6, ll.
13 20-54); and

14 a time compensation means attached to said connecting means for determining
15 propagation delays of signals within said network and utilizing said propagation delays for
16 ordering said active bidder messages according to a real-time order in which said bidder
17 messages were entered (see col. 7, ll. 51 to col. 8, ll. 4; and col. 6, ll. 55+); and

18 an output means connected to said processing means for presenting said bidder data
19 signals to said auctioneer (see col. 6, ll. 20-54; and col. 14, ll. 14-28).

1 **As in Claim 29:**

2 including a time compensation means, attached to said connection means, for determining
3 propagation delays of signals within said network and utilizing said propagation delays for
4 ordering said bidder messages at said output means according to a real-time order in to which of
5 said bidder messages was placed (see col. 7, ll. 51 to col. 8, ll. 4; and col. 6, ll. 55+).

6
7 **As in Claim 44:**

8 A method of conducting an auction over a network comprising the steps of:

9 receiving, from an auctioneer, an auctioneer voice message at an auctioneer voice
10 terminal connected to said network;

11 presenting said auctioneer voice message at a plurality of bidder voice terminal
12 connected to said network;

13 receiving a voice bidder message from a bidder, said bidder voice message being
14 responsive to said auctioneer voice message, said voice bidder message received at one of said
15 bidder voice terminals respective to said bidder;

16 presenting said received voice bidder message at a remainder of said bidder voice
17 terminals;

18 converting said voice bidder message into a bidder data signal;

19 presenting said bidder data signal to said auctioneer at an output means; and repeating the
20 foregoing steps until said auctioneer closes bidding (see *voice prompts*, col. 6, ll. 20 +).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 25-28, 35, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser et al (hereinafter "Fraser", US 5,329,589) in view of Hirose et al (herein after "Hirose", US 4,665,478).

Regarding Claims 25-28 and 35:

The teachings of Fraser have been discussed above. Fraser fails to disclose a message selector. This feature is found in Hirose (see, fig. 3, 205-- *Selection Program*, Abstract; col. 3, ll. 8-18; col. 4, ll. 25+). It would have been obvious for an artisan of ordinary skill at the time of the invention of Fraser to integrate the message selection program taught by Hirose into the Transaction Manager disclosed by Fraser because an artisan of ordinary skill at the time of the invention of Fraser would recognize the advantages of the message selection program to provide status criteria by which a particular message would (or would not) be transmitted to/from users.

1 Thus the transaction Manager would have an alternate means of mediation between terminals and
2 itself. Thus such a modification would have been an obvious expedient to one of ordinary skill
3 in the art.
4

5 **Regarding Claims 41 and 42:**

6 Fraser discloses all the elements for a processing means which meets the claimed
7 limitation. Fraser fails to disclose a message selector. Hirose discloses a message selector (see,
8 fig. 3, 205-- *Selection Program*, Abstract; col. 3, ll. 8-18; col. 4, ll. 25+), for accepting an output
9 request. It would have been obvious for an artisan of ordinary skill in the art at the time of the
10 invention to implement/ integrate the selector program, as disclosed by Hirose into the
11 Transaction Manager of Fraser because an artisan at the time of the invention would recognize
12 the advantage of using the selector program to provide additional management criteria for
13 processing messages between users. Thus such a modification would have constituted an obvious
14 expedient well within the ordinary skill in the art.
15
16

17 ***Allowable Subject Matter***

18 10. Claims 30-33, 36-40, 43, 45, 46, 48 and 49 are objected to as being dependent upon a
19 rejected base claim, but would be allowable if rewritten in independent form including all of the
20 limitations of the base claim and any intervening claims.

1
2 11. The following is a statement of reasons for the indication of allowable subject matter:

3 **Claims 30-33 and 36-40:**

4 It seems that the prior art does not disclose an auction system that uses “propagation delays for
5 alerting said auctioneer” in combination with the limitations as cited in the aforementioned
6 claims.

7 **Claims 43, 45, 46, 48 and 49:**

8 It seems that the prior art does not disclose an auction system which determines whether the
9 voice bidder message is active or inactive in combination with the limitations as cited in the
10 aforementioned

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Conclusion

12. A list of relevant prior art appears below not relied upon in this Office Action:
Fisher et al (US 5,835,896) discloses a method and system for processing and transmitting
electronic auction information

Alaia et al (US 6,230,146 B1) discloses a method and system for controlling closing times of
electronic auctions involving multiple lots

Ausubel (US 6,021,398) discloses a computer implemented methods and apparatus for auctions

13. Any inquiry concerning this communication or earlier communications from the examiner
should be directed to **Daniel S. Felten** whose telephone number is (703) 305-0724. The
examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.
Any inquiry of a general nature relating to the status of this application or its proceedings should
be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor
Vincent Millin whose telephone number is (703) 308-1065.

14. Response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

for formal communications intended for entry, or (703) 305-0040, for informal or draft
communications, please label "Proposed" or "Draft".

Communications via Internet e-mail regarding this application, other than those under 35
U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be

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Representative: Bauer (31,558)


1 addressed to [daniel.felten@uspto.gov].

2
3 All Internet e-mail communications will be made of record in the application file. PTO
4 employees do not engage in Internet communications where there exists a possibility that
5 sensitive information could be identified or exchanged unless the record includes a properly
6 signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly
7 set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and
8 Trademark on February 25, 1997 at 1 195 OG 89.

9 

10 DSF

11 April 17, 2002


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
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